

# United States District Court

NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA

v.

CELSO MARTEARENA-ARRIOLA

Venue: San Francisco

CRIMINAL COMPLAINT

CASE NUMBER:

200870232

JL

I, the undersigned complainant being duly sworn, state the following is true and correct to the best of my knowledge and belief. On or about April 3, 2007 in Marin County, in the Northern District of California defendant(s) did,

SEE ATTACHMENT "A"

in violation of Title 8 United States Code, Section(s) 1326.

I further state that I am a(n) Deportation Officer and that this complaint is based on the following facts:  
Official Title

**SEE ATTACHED AFFIDAVIT MADE A PART HEREOF**

**PENALTIES:** Imprisonment for not more than 20 years, a fine of not more than \$250,000.00, a \$100.00 dollar special assessment, and 3 years supervised release.

APPROVED AS TO FORM:

  
ASSISTANT UNITED STATES ATTORNEY

Continued on the attached sheet and made a part hereof:  Yes  No

Warrant of Arrest Requested:  Yes  No

Bail Amount: NO BAIL

  
Signature of Complainant

Sworn to before me and subscribed in my presence,

4-15-08 at San Francisco, California  
Date City and State

**Honorable James Larson**  
**Chief United States Magistrate Judge**

  
Signature of Judicial Officer

Name & Title of Judicial Officer

**ATTACHMENT "A"**

On or about April 1, 2008, the defendant, Celso Martearena-Arriola, an alien having been previously deported from the United States, was found in San Quentin State Prison, in the State and Northern District of California, without having obtained express consent for reapplication for admission from either the Attorney General of the United States or his successor, the Secretary for Homeland Security (Title 6, United States Code, Sections 202(3), (4) and 557).

STATE AND NORTHERN DISTRICT OF CALIFORNIA )  
 CITY AND COUNTY OF SAN FRANCISCO ) ss, AFFIDAVIT  
 )

I, Cesar J. Lopez, Deportation Officer, U.S. Immigration and Customs Enforcement (ICE), being duly sworn, depose and state:

### **I. INTRODUCTION AND PURPOSE OF AFFIDAVIT**

1. This affidavit is submitted in support of a criminal complaint against CELSO MARTEARENA-ARRIOLA, for violating 8 U.S.C. § 1326. The facts set forth in this Affidavit are based on my review of MARTEARENA'S official Immigration file (No. A91 761 305), my personal observations, my training and experience, and where noted, information related to me by other law enforcement officials. However, the facts set forth in this Affidavit are not all facts related to MARTEARENA-ARRIOLA that are known to me.

### **II. AGENT'S BACKGROUND AND EXPERTISE**

2. I have been a Deportation officer with the U. S. Department of Homeland Security (DHS), U.S. Immigration and Customs Enforcement (ICE), formerly the United States Department of Justice (DOJ), Immigration and Naturalization Service (INS), for approximately 14 years. I am currently assigned to ICE's San Francisco, California office, and I am responsible for enforcing federal criminal statutes involving criminal aliens who reenter the United States illegally.

### **III. APPLICABLE LAW**

3. Title 8 U.S.C. § 1326 provides criminal penalties for "any alien who (1) has been denied admission, excluded, deported, or removed or has departed the United States while an order of exclusion, deportation, or removal is outstanding, and thereafter (2) enters, attempts to enter, or is at any time found in, the United States, unless (A) prior to his reembarkation at a place outside the United States or his application for admission from foreign contiguous territory, the Attorney General has expressly consented to such alien's reapplying for admission; or (B) with respect to an alien previously denied admission and removed, unless such alien shall establish that he was not required to obtain such advance consent under this chapter or any prior Act . . . ."

### **IV. FACTS ESTABLISHING PROBABLE CAUSE**

4. CELSO MARTEARENA-ARRIOLA is a 49 year-old male who is a native and citizen of Mexico. MARTEARENA-ARRIOLA was deported from the United States to Mexico on November 29, 1994, November 14, 1995, August 7, 1998, June 21, 2001 and April 27, 2005. MARTEARENA-ARRIOLA last entered the United States illegally on May 5, 2005 by voluntarily crossing into Arizona through the international border with Mexico by foot. MARTEARENA-ARRIOLA knowingly remained in the United States without first having

obtained the consent to reapply for admission from the Attorney General of the United States or the United States Secretary of Homeland Security.

5. The official Immigration file for MARTEARENA-ARRIOLA contains five executed Warrants of Removal. The Warrants of Removal are dated November 29, 1994, November 14, 1995, August 7, 1998, June 21, 2001 and April 27, 2005, the dates that MARTEARENA-ARRIOLA was deported from the United States to Mexico.

6. On or about April 01, 2008 an ICE agent encountered MARTEARENA-ARRIOLA pursuant to his release from the San Quentin State Prison in San Quentin, California on unrelated charges. MARTEARENA-ARRIOLA stated that his name was Celso Martearena-Arriola. Subsequently, the agent lodged an ICE detainer against him.

7. On April 9, 2008, Immigration Enforcement Agent Jonathan Bugayong interviewed MARTEARENA-ARRIOLA at the ICE office in San Francisco, California. After MARTEARENA-ARRIOLA was advised of his Miranda rights and the right to speak with the consular or diplomatic officers of his country of citizenship, he admitted that his true name was CELSO MARTEARENA-ARRIOLA. MARTEARENA-ARRIOLA admitted that he was a citizen and national of Mexico and that he had been previously deported from the United States. He also admitted that he illegally reentered the United States on May 05, 2005.

8. On April 10, 2008, a full set of rolled fingerprints belonging to MARTEARENA-ARRIOLA was submitted the Automated Fingerprint Identification Center ("AFIS"), for verification of the identity. The fingerprint examiner positively identified the fingerprint as belonging to MARTEARENA-ARRIOLA who had previously been removed from the United States as referenced in paragraph 4.

9. There is no indication in ICE's official files that MARTEARENA-ARRIOLA has applied for or been granted the requisite permission to reenter the United States from either the Attorney General of the United States or the Secretary of Homeland Security.

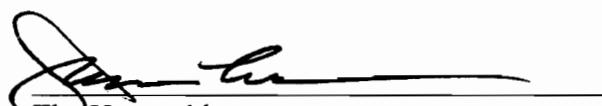
## V. CONCLUSION

10. On the basis of the above information, I submit that probable cause exists to believe that CELSO MARTEARENA-ARRIOLA illegally reentered the United States following deportation, in violation of 8 U.S.C. § 1326.



Cesar J. Lopez  
Deportation Officer  
U.S. Immigration and Customs Enforcement  
U.S. Department of Homeland Security  
San Francisco, California  
415-844-5677 (office)  
415-850-9044 (cell)

Subscribed and sworn to before me this 15~~th~~ day of April, 2008.



The Honorable  
United States Magistrate Judge  
Northern District of California  
San Francisco, California